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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,939	07/09/2001	Klas Stoltz	STOLTZ=10	5940

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EXAMINER

LE, KHANH H

ART UNIT PAPER NUMBER

3622

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/899,939

Applicant(s)

STOLTZ ET AL.

Examiner

Khanh H. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the original application . Claims 1-12 are pending with claims 1 and 12 as independent.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claims 7 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.**

Claim 7, dependent on claim 1, states “ said unique identification code...is forming a code for at least two lots..” while claim 1 claims “sending the unique identification code to the connected subscriber, said code forming a code for a unique lot in the lottery” and “randomising ..one identification code, i.e. one lot,..” .

The specifications at page 2 line 23 also indicates that the unique identification code is unique to a unique lot in the lottery. Thus claim 7 seems contradictory to claim 1, and it is

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unclear what the unique identification code pertains to and how the claim is enabled. Thus no prior art can be applied to it.

Further, it is unclear how the invention claimed in claim 8 is put to practice. Claim 7 on which it depends specifies a unique identification code for 2 lots bought by the same purchaser. Claim 8 claims updating the unique code for each of the 2 lots. It is not clear how each lot being unique, can be identified by the same code. It is conceivable the code, in these claims, are only part of a code and another portion of code is attached to identify that more than one lot is involved, even for the same purchaser. In view of this confusion, no prior art can be applied to claim 8.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 3, 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

6. As to claim 3, the scope of “different objects” is unclear. The example given, “e.g. charity objects”, is insufficient to delimit the metes and bounds of the claim. Appropriate correction is required. See MPEP 2173.02.

As to claims 7 and 8, they are rejected as confusing in view of claims 1 and 7, respectively (see discussion under 35 U.S.C. 112, first paragraph above). In view of this confusion, no prior art can be applied to either claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

–(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 4, 6, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Reese 4,969,183, herein Reese.

As to claims 1, 4, 6, 10, 12,

Reese discloses a telephone (via speaking voice), lottery management system, via touch-tone (clicking buttons), wherein a connected user, identified by an identifier (see at least abstract, col. 2 lines 49-53), selects from a menu different information (see at least Figs. 1A and 1B and associated text), wherein unique lottery numbers are assigned to the user, based on the user ID and/or some other type of code transmitted to the system by the user, and are stored as a unique lottery number for that user (unique confirmation code: see Fig. 1B, item 123 and associated text), confirming same to the user (see at least Fig. 1B and associated text), charging the cost of the lottery purchase, and randomizing the assigned unique lottery numbers to choose a winner (see at least abstract).

Note: Claim 10 is rejected under 35 USC § 103 below as well.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 2-3, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reese 4,969,183, herein Reese.**

As to claim 2, Reese does not specifically disclose the menu comprise different quantities of lots however Reese disclose a menu where a “purchase” or dollar amount can be inputted (see at least col. 2 lines 49-53). Through Reese’s disclosure of “purchase” as opposed to “dollar amount”, it would have been obvious to one skilled in the art at the time the invention was made to include in the menu a quantity of lots as a selection (i.e. a “purchase amount” as suggested by Reese) as an alternative to the dollar amount for ease of input by the user.

As to claim 3,

Reese discloses conveniently charging the cost of lottery purchases to a user credit card account or via a monthly telephone statement, and splitting the charges to pay two parties such as a fixed dollar amount for the purchase of the lotto selection and another portion for use of an access 900 phone number (see at least abstract). However Reese does not specifically disclose

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designation of charities to receive part of the money charged to the user or the cost of the purchases.

Official Notice is taken that it is well-known some companies contribute part of their sales to charities as a way to entice some consumers to their businesses. Thus it would have been obvious to one skilled in the art at the time the invention was made to add the option of charitable giving for the above-stated advantage. Further it would have been obvious to one skilled in the art at the time the invention was made to use Reese's method of splitting the lottery purchase charge to pay two parties to effect paying the charities for the convenience of one bill to the consumer as taught by Reese.

As to claim 9, Official Notice is taken that it is well-known for lotteries to be advertised via television programs (i.e. "the public lottery is part of a television program") because it is an efficient advertising medium. Thus it would have been obvious to one skilled in the art at the time the invention was made to use the method of Reese in connection with advertising the lottery on television for the above stated advantage.

As to claim 11, Official Notice is taken that it is well-known to substitute speaking sounds of the user as an alternative to touch tone input. It would have been obvious to one skilled in the art at the time the invention was made to add such alternative to the Reese system to accommodate users who might prefer that input alternative.

11. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reese as applied to claim 1 above, and further in view of Haefliger, US 6553104 herein Haefliger.

As to claims 5 and 10 (dependent on claims 3 and 1, respectively), Reese does not specifically disclose information transmittal to a user computer screen and use of buttons for user responses.

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However, Haeffliger discloses the Internet, as communications art-equivalents of a lottery phone system (see at least col. 3 and 4 , claim 1). It would have been obvious to one skilled in the art at the time the invention was made to add Haeffliger 's internet and visual screen systems to the Reese system to accommodate online screen users.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Guttman et al, US 5,354,069 discloses telephone lottery system with users ID , selections from menus, via IVRU or screen, assigning /storing ID of a unique lottery lots based on user ID's.

Katz, US 5365575, discloses telephone interface lottery system.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 703-305-0571. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

December 9, 2004

KHL


JAMES W. MYHRE
PRIMARY EXAMINER